

Exhibit I

ALEX HORNE, PhD, Volume II, 3-6-09

294

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 NORTHERN DISTRICT OF OKLAHOMA
3
4

5 W. A. DREW EDMONDSON, in his)
6 capacity as ATTORNEY GENERAL)
7 OF THE STATE OF OKLAHOMA and)
8 OKLAHOMA SECRETARY OF THE)
9 ENVIRONMENT C. MILES TOLBERT,)
10 in his capacity as the)
11 TRUSTEE FOR NATURAL RESOURCES)
12 FOR THE STATE OF OKLAHOMA,)

13 Plaintiff,)

14 vs.)

15 TYSON FOODS, INC., et al,)

16 Defendants.)

17 - - - - -
18 VOLUME II OF THE VIDEOTAPED
19 DEPOSITION OF ALEX HORNE, PhD, produced as a
20 witness on behalf of the Plaintiff in the above
21 styled and numbered cause, taken on the 6th day of
22 March, 2009, in the City of Tulsa, County of Tulsa,
23 State of Oklahoma, before me, Lisa A. Steinmeyer, a
24 Certified Shorthand Reporter, duly certified under
25 and by virtue of the laws of the State of Oklahoma.

TULSA FREELANCE REPORTERS
918-587-2878

ALEX HORNE, PhD, Volume II, 3-6-09

295

A P P E A R A N C E S

FOR THE PLAINTIFFS: Mr. David Page
Attorney at Law
502 West 6th Street
Tulsa, OK 74119

FOR CARGILL: Mr. John Tucker
Attorney at Law
100 West 5th Street
Suite 400
Tulsa, OK 74103

FOR SIMMONS FOODS: Mr. John Elrod
Attorney at Law
211 East Dickson Street
Fayetteville, AR 72701

FOR GEORGE'S: Mr. Woodson Bassett
Mr. James Graves
Attorneys at Law
221 North College
Fayetteville, AR 72701

ALSO PRESENT: Dr. Dennis Cooke

**TULSA FREELANCE REPORTERS
918-587-2878**

ALEX HORNE, PhD, Volume II, 3-6-09

296

I N D E X

W I T N E S S	P A G E
ALEX HORNE, PhD	
Cont. Direct Examination by Mr. Page	297
Cross Examination by Mr. Graves	511
Cross Examination by Mr. Elrod	542
Cross Examination by Mr. Tucker	544
Redirect Examination by Mr. Page	544
Signature Page	548
Reporter's Certificate	549

TULSA FREELANCE REPORTERS
918-587-2878

ALEX HORNE, PhD, Volume II, 3-6-09

368

1 Q So it had risen to 94 percent in 2005?

2 MR. GRAVES: Object to form, asked and
3 answered.

4 A Apparently risen.

5 Q Would you agree, sir, that this is a real 10:52AM
6 change over time?

7 MR. GRAVES: Object to form, asked and
8 answered.

9 A If it was true, it would be a real change over
10 time. 10:52AM

11 Q Let me hand you what's been marked as Exhibit
12 18.

13 MR. BASSETT: Do you have another one,
14 David?

15 MR. PAGE: I'm sorry. I only have a couple 10:53AM
16 of these.

17 MR. BASSETT: That's fine.

18 Q Let me tell you, sir, that Exhibit 18 has
19 taken data from the Cooke and Welch report but added
20 to the charts in the Cooke and Welch report the 2008 10:54AM
21 data that we've heard a lot of objections about, and
22 it shows the Cooke and Welch graphs, along with the
23 1960s data from the Summers report and the 2008
24 data. So all the DO data has been plotted on one
25 Exhibit 18 for your consideration. 10:54AM

**TULSA FREELANCE REPORTERS
918-587-2878**

ALEX HORNE, PhD, Volume II, 3-6-09

369

1 **A** Oh, I see.

2 MR. GRAVES: David, are you representing
3 that the 1960 data was on the original tables that
4 accompanied the Cooke and Welch reports?

5 MR. PAGE: No, no. I'm using the 1960 data 10:54AM
6 that Dr. Horne used in his report, plotted it on the
7 equivalent charts in the Cooke and Welch report, and
8 I also added 2008 data that we talked about
9 previously.

10 MR. GRAVES: I'm going to object to this 10:54AM
11 exhibit and the use of this exhibit at the
12 deposition with regard to the 1960 data as new
13 analysis by the State's experts beyond the deadline
14 and with regard to the 2008 data for the same
15 reasons and also because the court has specifically 10:55AM
16 ruled on the 2008 data and determined that that was
17 an improper supplement that wasn't allowed as being
18 beyond the deadline with regard to all three pages
19 of that exhibit, and we'll move to strike the
20 exhibit, as well as all questions and answers 10:55AM
21 related to the exhibit.

22 MR. PAGE: Only thing I'll comment, James,
23 is that actually I was the one that asked to have
24 this put together. This was my idea. It wasn't the
25 expert. 10:55AM

**TULSA FREELANCE REPORTERS
918-587-2878**

ALEX HORNE, PhD, Volume II, 3-6-09

370

1 MR. GRAVES: But I assume you didn't put it
2 together?

3 MR. PAGE: Well, I had someone graph it for
4 me.

5 MR. GRAVES: Well, the objection stands, 10:55AM
6 and we'll, you know, move forward with the
7 deposition, but we've made our Record, and we'll
8 move to strike this.

9 MR. PAGE: Sure.

10 Q Okay. I'd like to -- with this exhibit, Dr. 10:55AM
11 Horne, I would like you to look at temperature and
12 DO and do a comparison between 1960 and the
13 2005-2008 time period. So the first page is the
14 temperature.

15 MR. ELROD: Hey, could you -- can we do a 10:56AM
16 two-minute timeout so we can get another couple of
17 copies of this?

18 MR. PAGE: Sure.

19 VIDEOGRAPHER: We are now off the Record.
20 The time is 10:56 a.m. 10:56AM

21 (Following a short recess at 10:56
22 a.m., proceedings continued on the Record at 11:09
23 a.m.)

24 VIDEOGRAPHER: We are back on the Record.
25 The time is 11:09 a.m. 11:08AM

**TULSA FREELANCE REPORTERS
918-587-2878**